

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Parts 1, 22, 24, 27, 74, 80, 90,)	
95, and 101 To Establish Uniform License)	WT Docket No. 10-112
Renewal, Discontinuance of Operation, and)	
Geographic Partitioning and Spectrum)	
Disaggregation Rules and Policies for Certain)	
Wireless Radio Services)	
)	
Imposition of a Freeze on the Filing of)	
Competing Renewal Applications for Certain)	
Wireless Radio Services and the Processing of)	
Already-Filed Competing Renewal Applications)	

COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®

CTIA – The Wireless Association® (“CTIA”)¹ submits these comments on the information collection requirements proposed in the Federal Communications Commission’s (“FCC” or “Commission”) *Notice of Proposed Rulemaking and Order* in the above-captioned proceeding.² CTIA submits that the changes proposed in the *NPRM* would impose significant burdens on wireless licensees with no countervailing public benefit. As such, the Commission

¹ CTIA – The Wireless Association® is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, Advanced Wireless Services, PCS, 700 MHz and ESMR, as well as providers and manufacturers of wireless data services and products.

² *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, Notice of Proposed Rulemaking and Order, 25 FCC Rcd 6996 (2010) (“*NPRM*” and “*Order*”).

should instead adopt the proposed site-based wireless service renewal showing for all wireless services – thus achieving the harmonization the Commission desires without the incredible paperwork burden the *NPRM* contemplates for geographic licensees.

In this proceeding, the FCC proposes to require Commission licensees in the Wireless Radio Services³ to make a detailed showing at the end of each license term to justify renewal of the license. Specifically, proposed Section 1.949 requires a “detailed description” of the licensee’s service during “the entire license period,” addressing the following factors:

- (1) the level and quality of service, including population, area served, number of subscribers, services offered;
- (2) the date service commenced and whether service was ever interrupted, and the duration of any interruptions or outages;
- (3) the extent to which service is provided to rural areas;
- (4) the extent to which service is provided to tribal lands; and
- (5) any other factors associated with the level of service to the public.⁴

In addition to the renewal showing criteria proposed in Section 1.949, the *NPRM* also seeks comment on the possible addition of other, even more onerous factors. For example, licensees would have to determine if they are serving “populations with limited access to telecommunications services” or “niche markets,” or if they are offering “a specialized or technologically sophisticated service that does not require a high level of coverage to benefit consumers.”⁵

As described in detail below, requiring licensees to address these additional criteria would add substantially more time to the renewal process for both the applicants and the Commission. This unbelievable burden would not be offset by any possible public interest

³ *NPRM* at n.1 (“Section 1.907 of the Commission’s rules defines the term ‘Wireless Radio Services’ as ‘all radio services authorized in parts 13,20,22,24,26,27,74,80,87,90,95,97 and 101 of this chapter, whether commercial or private in nature.’ 47 C.F.R. § 1.907. We note that Part 26 no longer exists.”).

⁴ See *NPRM* at ¶ 23 and Appendix A.

⁵ See *NPRM* at ¶ 27.

benefits. Over the next 10 years, this increased burden would be applied to the nearly half million renewals that will be submitted to the FCC. These reporting requirements will impose both significant financial and personnel resource burdens on wireless licensees – resources that could be better spent in the provision of wireless broadband services. Moreover, as CTIA and others detailed in comments to the *NPRM*, there are less burdensome alternatives available that would still meet the FCC’s objectives in this proceeding. For these reasons, the Commission should reexamine its proposed rules and, consistent with Paperwork Reduction Act analysis, not impose unworkable burdens on wireless providers.

I. THE FCC’S REPORTING REQUIREMENTS WILL IMPOSE SIGNIFICANT BURDENS ON WIRELESS LICENSEES.

The FCC’s proposed new reporting requirements will impose significant burdens on the wireless industry and on the FCC. The Commission expects over 430,000 renewal applications over the next ten years.⁶ When one considers the multiple questions asked by the Commission regarding each license, as well as the Commission’s request for supporting data over the life of the license, it is quite clear that the amount of time needed to comply will be significant.

Should the Commission adopt its proposed renewal showing, wireless licensees would be required to perform a number of timely and expensive activities in order to comply. For example, with respect to the Commission’s proposal that the renewal showing contain a complete record of administrative action over the lifetime of the license, licensees would be required to compile such a record. For those services which have been recently auctioned, that may not entail much work. However, some of the wireless services the Commission proposes to subject to this renewal showing have been in existence for more than 25 years – in some cases licensed to many, now defunct entities. In order to comply with the Commission’s proposed

⁶ See *NPRM* at ¶ 7.

rule, existing licensees would be required to undertake a timely and expensive process of compiling a complete record of the license. In fact, it should be noted that the Commission's proposed data collection for a renewal showing would exceed the data required by the Commission to grant a licenses in the first place.

This is by no means the only overly burdensome collection the Commission is proposing. But, as a result of the Commission's vague descriptions of what will comprise a sufficient renewal showing, it is difficult to highlight specific additional concerns about the overall impact of the data collection, only that they will be extensive and costly. However the Commission defines the nebulous "other factors associated with the level of service to the public," in order to comply, licensees will require additional resources including the identification and training of new staff. Collecting data regarding cell site transmitter stations, types of facilities in operation, descriptions of investments, expansion plans, and more would require extensive training. Moreover, the assembly of such a complex renewal showing would entail creating new work flows to bring together the disparate departments that would be necessary to produce the renewal showing. None of this burden seems to be reflected in the Commission discussion of the proposed collection.

Because an individual renewal showing will be required for each license, the administrative costs and burdens will have a significant impact on all licensees, the impact will vary from carrier to carrier, but it will be significant. For example, a service provider holding a license for REAG4 would have to make one large filing every ten years but would also have to document compliance with the Commission's proposed factors over the entire term of the license. Another service provider covering the exactly same area, but holding BTA-sized licenses, would have 93 individual filings, possibly in various years, depending on expiration

dates. And a provider holding CMA licenses for the same area would have 138 filings. Likewise, smaller regional and rural licensees may be disproportionately impacted, both because they are less likely to have sufficient in-house staff to compile the showings, and are more likely to hold multiple, small-area licenses.

The new information collection also will impose significant burdens on the Commission. This reporting requirement will result in an exorbitant amount of data and analyses being submitted to the Commission. It is highly doubtful that the FCC has the resources to adequately review this deluge of paperwork. Before imposing this burden on wireless providers, the FCC must take steps to ensure that it is capable of performing this review by ensuring that it has adequate staffing, funding, and time to meaningfully review these reports.

In sum, the Commission appears to have underestimated the time and resources that its proposed renewal showing requirement will have on wireless carriers and the agency itself.

II. THE COMMISSION'S PROPOSED RULES WOULD VIOLATE THE PAPERWORK REDUCTION ACT.

Under the PRA, in order to support proposed new information collection requirements, the Commission must certify and provide a supporting record that each collection of information meets ten factors outlined in the statute.⁷ As currently proposed in the *NPRM*, the renewal

⁷ The PRA showing requires that the information: “(A) is necessary for the proper performance of the functions of the agency, including that the information has practical utility”; “(B) is not unnecessarily duplicative of information otherwise reasonably accessible to the agency”; “(C) reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities”; “(D) is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond”; “(E) is to be implemented in ways consistent and compatible, to the maximum extent practicable, with the existing reporting and recordkeeping practices of those who are to respond”; “(F) indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified”; (G) includes a statement as to why and how the information will be used and the estimate of the burden of collection; “(H) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public”; “(I) uses effective and efficient statistical survey methodology appropriate to the purpose for which the

showing requirements would fail a number of the PRA factors. Thus the Commission can expect disapproval of the proposal by OMB if it is not significantly altered in the Commission's Report and Order. This is not an insignificant risk, as OMB has already disapproved the Commission's information collection proposal that was an essential component of its emergency backup power rules.⁸

For example, how could the Commission demonstrate that the renewal application information "is necessary for the proper performance of the functions of the agency, including that the information has practical utility,"⁹ when the renewal showing criteria are so vague as to have no practical utility and when the Commission has been able to perform its license renewal functions to date without the additional information proposed in the *NPRM*? How is the proposed requirement that licensees submit already-issued FCC orders, letter rulings and petitions to deny on file at the Commission not "unnecessarily duplicative of information otherwise reasonably accessible to the agency?"¹⁰ How is the renewal application requirement to identify "any other factors associated with the level of service to the public"¹¹ written in "unambiguous terminology?"¹² How will the Commission, which expects over 430,000 renewal

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information is to be collected"; and "(J) to the maximum extent practicable, uses information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public." 44 U.S.C. §§ 3506(c)(3).

⁸ See Notice of Office of Management and Budget Action, ICR Reference Number 200802-3060-019 (Nov. 28, 2008), available at <http://www.cio.noaa.gov/itmanagement/0581sub.pdf>; see also *Recommendations of the Independent Panel Reviewing the Impact of Hurricane Katrina on Communications Networks*, Order on Reconsideration, 22 FCC Rcd 18013 (2007).

⁹ 44 U.S.C. § 3506(c)(3)(A).

¹⁰ *Id.* at § 3506(c)(3)(B).

¹¹ Proposed Section 1.949(c)(5).

¹² See 44 U.S.C. § 3506(c)(3)(D).

applications over the next ten years,¹³ have the resources to allocate “for the efficient and effective management and use of the information to be collected”¹⁴ given the vast amounts of information proposed in the *NPRM* for the renewal application? As CTIA and others noted in the initial comments to the *NPRM*, the Commission’s proposed rules are so vague as to potentially render them unenforceable. These are just some of the PRA questions that the Commission would have to grapple with if the renewal showing currently proposed in the *NPRM* is not severely streamlined and clarified.

III. THERE ARE LESS BURDENSOME MEANS OF MEETING THE FCC’S OBJECTIVES.

The Commission can collect information to ensure regulatory compliance at renewal and harmonize the renewal process through less burdensome means. Specifically, as CTIA and others suggested in comments to the *NPRM*, the Commission could adopt a streamlined service certification and a regulatory compliance demonstration/certification consistent with the proposal for site-based Wireless Radio Service licenses.

In the *NPRM*, the Commission seeks comment on whether it should impose a “streamlined certification process” for renewal of site-based wireless licenses, in lieu of requiring site-based wireless licensees to make a substantial service renewal showing.¹⁵ Under the Commission’s proposal, renewal applicants would be required to certify that “they are continuing to operate consistent with the applicable filed construction notification(s) (NT) or most recent authorization(s) (when no NT is required under the Commission’s rules).”¹⁶ If a licensee makes the certification “and demonstrates substantial compliance with the

¹³ See *NPRM* at ¶ 7.

¹⁴ See 44 U.S.C. § 3506(c)(3)(H).

¹⁵ *NPRM* at ¶¶ 33-35.

¹⁶ *Id.* at ¶¶ 34.

Commission’s rules and policies and the Communications Act,” the Commission will renew the license.¹⁷

Instead of imposing the proposed renewal showing requirements for geographically licensed services, the Commission should adopt the “service certification” renewal showing proposed for site-based licenses and apply that requirement to both site-based and geographically licensed wireless services. The service certification showing is far more consistent with existing renewal standards and licensees’ expectations for most licensed wireless services. In addition, adopting the certification requirement would harmonize the Commission’s renewal requirements by providing a clear, streamlined, and efficient process for *all* wireless licensees referenced in the *NPRM*. As the Commission recognizes, a streamlined certification process “will avoid unduly burdening renewal applicants and Commission staff” and “ensure that renewed licenses in these services are being operated as authorized.”¹⁸

¹⁷ *Id.*

¹⁸ *Id.* at ¶ 35.

IV. CONCLUSION.

For the reasons discussed above, the Commission should not adopt the onerous proposals contained in the *NPRM* that would lead to more bureaucratic complexity, confusion, and waste. While a few of the proposed rule changes are worthy of adoption, the *NPRM* overall sends exactly the wrong message to an industry that, at the moment, is focusing its efforts on ensuring the rapid expansion of mobile broadband throughout the nation.

Respectfully submitted,

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